

PLEASE POST

November 1998

PECFA UPDATE 14

It has been six months since promulgation of the COMM47 Emergency Rule! Many relevant issues have been addressed over the last half-year through PECFA-sponsored workshops, meetings, and numerous phone calls with many of you. We appreciate everyone's efforts in working with us to clarify the intent and focus of the new rules.

One of the largest tools provided to us in the Emergency Rule, **BIDDING**, is finally being implemented, and is the main focus of this issue of the PECFA Update. Additional issues to be addressed include **CLARIFICATIONS TO THE 80K PROCESS**, as well as **GENERAL CLARIFICATIONS TO THE APPLICABILITY OF COMM47**. We trust that you will find the information included in this Update extremely informative... read on!!

<p>BIDDING STATUS</p> <p>Website Location for Bidding Information</p> <p>1st Phase of Bid Requests due November 24th</p> <p>Bid Site</p>	<p>COMM47 allows the Department to direct sites to the public bid process. Of the 400 RAPs received between April 21st and August 31st, 1998, there are 30 sites that are being directed to the public bid process, per COMM47.337 and 47.338. Of these 30 sites, 6 locations are included in this first set of bid requests.</p> <p>The public bid process will be initiated on Wednesday, October 28, 1998. The requests for bids will be listed on the Department of Commerce Website, at the following address:</p> <p style="text-align: center;">www.commerce.state.wi.us</p> <p>The bidding process will be open through Tuesday, November 24th. Bid specification documents can be requested through the PECFA Site Review Contact for each site. The Site Investigation Reports can be reviewed at the appropriate Site Review office location, or copies can be ordered from the print shop location specified in the bid spec documents. <u>Contact with site owners and COMM may only be made through the PECFA Site Review Contact.</u></p> <p>All responses to the requests for bids must be received by the Department of Commerce, at the appropriate Site Review office location, by 1:00pm on Tuesday, November 24th. Bids can be submitted via mail, courier, or in person; no fax or email submittals will be accepted. All questions and calls regarding bid responses must be directed to the appropriate PECFA Site Review Contact for each specific site.</p> <p>The locations of the first sites submitted for bidding, and the respective PECFA Site</p>
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Locations:	<p>Review Contacts, are listed below. These addresses are also listed on the Websites. Please contact the appropriate Site Review Hydrogeologist to request a bid specification document, which provides detailed information regarding the bidding process.</p>
<u>Chilton</u>	<p> PECFA number: <u>53014-1323-23</u> BRRTS number: 03-08-002009 Site Name: DAUN SERVICES INC. Site Address: 23 W. Main St., Chilton, WI 53014 Program contact: Linda Michalets, Site Review Hydrogeologist Program contact address: 101 W. Pleasant St, Suite 205, Milwaukee, WI 53212 Program contact phone: 414-220-5376 </p>
<u>Juneau</u>	<p> PECFA number: <u>53039-1202-12</u> BRRTS number: 02-14-001609 Site Name: DODGE COUNTY COOPERATIVE Site Address: 112 S. Depot St., Juneau, WI 53039 Program contact: Jennifer Skinner, Site Review Hydrogeologist Program contact address: 101 W. Pleasant St., Suite 205, Milwaukee, WI 53212 Program contact phone: 414-220-5373 </p>
<u>Whitefish Bay</u>	<p> PECFA number: <u>53217-4846-06</u> BRRTS number: 03-41-109762 Site Name: GENE'S BAY SERVICE Site Address: 5606 N. Lake Dr, Whitefish Bay, WI 53217 Program contact: Nancy Kochis, Site Review Hydrogeologist Program contact address: 101 W. Pleasant St, Suite 205, Milwaukee, WI 53212 Program contact phone: 414-220-5372 </p>
<u>Sauk City</u>	<p> PECFA number: <u>53583-9602-94</u> BRRTS number: 03-57-002265 Site Name: MIKE'S KITCHEN Site Address: Hwy 12, Sauk City, WI 53583 Program contact: Eric Scott, Site Review Hydrogeologist Program contact address: 201 W. Washington Ave., Madison, WI 53701 Program contact phone: 608-266-8516 </p>
<u>Denmark</u>	<p> PECFA number: <u>54208-9129-90</u> BRRTS number: 03-05-118094 Site Name: FORMER BELLEVUE OIL COMPANY Site Address: Co. Road R, Denmark, WI 54208 Program contact: Dee Zoellner, Site Review Hydrogeologist Program contact address: 2129 Jackson St., Oshkosh, WI 54901 Program contact phone: 920-424-0046 </p>
<u>Dale</u>	<p> PECFA number: <u>54931-0170-14</u> BRRTS number: 03-45-110747 Site Name: SERVICE MOTOR COMPANY Site Address: Hwy 10, Dale, WI 54931 Program contact: Tom Verstegen, Site Review Hydrogeologist Program contact address: 2129 Jackson St., Oshkosh, WI 54901 Program contact phone: 920-424-0025 </p>

80K Notification

It has been interesting to note that 30% of the RAPs received since April 21st, 1998, have consisted of 80K Notifications. This demonstrates that one of the primary purposes of COMM47.339 "Cost Effective Remediations" has been achieved; a large percentage of remedial efforts have been streamlined.

We continue to receive numerous questions from consultants and site owners regarding the 80K process. The following provides clarification on some of the most commonly asked questions regarding the 80K option:

"What is required in order to notify COMM of an 80K Site?"

A letter stating the intent to conduct remediation of the site under the total cost of \$80,000 (including site investigation and remediation) is required. This notification must be received prior to the claim submittal, and before any remedial work is conducted on the site. If notification to proceed under the 80K route is not received, the claim may not have priority review. As mentioned in each of the workshops, COMM would like the letter of intent signed by the site owner; at a minimum, the site owner must be referenced and copied on the letter.

"Will COMM send me a confirmation of the 80K approval if requested?"

No; one of the purposes of the 80K process is to streamline the review procedure. For this reason, COMM Site Reviewers will not respond with written confirmation that an 80K notification has been processed. The fact that the site investigation and remediation will be conducted for a cost not to exceed 80K will be entered into the TRACKER database system at the time of notification. If approval is denied, you will be notified in writing.

"What is required to get cost exceedence approval beyond \$80,000?"

We anticipate few exceedence approvals for sites that notify COMM of the intent to conduct activities under 80K, and then determine that additional costs are required. There may be exceptions, in the event of unforeseen circumstances, but these approvals will be minimal.

"Can a site with groundwater contamination be conducted as an 80K site?"

Absolutely! If the anticipated cost to bring the site to a closed remedial action, including investigation and remediation costs, is less than \$80,000, the site can be completed as an 80K site, and receive the associated privileges of priority claim review. It is important to keep in mind, however, that if it is determined that there was sufficient evidence that a site could not achieve closure within the <80K amount, and yet an 80K notification was received for the purpose of keeping the site out of the bidding process, additional costs beyond 80K may be ineligible for reimbursement at claim review time.

"If an 80K site has no environmental factors, can active treatment be conducted on the site if costs are kept below \$80,000?"

No, COMM47 specifically states that active treatment is not an option if a site has no environmental factors. The fact that a site is completed for less than 80K would make no difference.

80K Notification (continued)	<p><i>"What happens if the site cannot be completed for 80K?"</i></p> <p>COMM47.339(2) states that if the activities cannot be completed under the anticipated amount of \$80,000, the Department should be notified as soon as it is known that the costs will exceed this amount, or as soon as it was reasonably expected to be known. "In no event is the \$80,000 limit to be exceeded without prior notice to the Department". Upon notice, the site owner may be required to provide a total lifetime cost to achieve closure, which may result in the decision to cap costs, or bid the remedial alternative. Any costs above the \$80,000 limit, without Department approval, will be the (sole) responsibility of the consultant/claimant, and cannot be claimed under PECFA. Additionally, consultants and/or consulting firms which exhibit a pattern of failure to complete sites under the 80K limit may be restricted and/or disqualified from the PECFA program.</p>
COMM47 Clarification	<p>Since the promulgation of the COMM47 Emergency Rule, there have been numerous misconceptions regarding the ability and intent of the Emergency Rule to control costs for <u>all</u> PECFA-eligible sites. The following points provide clarification of specific sections of the COMM47 Emergency Rule, and specifies the types of submittals appropriate to each section:</p> <ul style="list-style-type: none"> • <u>47.335</u> - applies to site investigations started after implementation of ILHR47 (January 15, 1993) for which a RAP was received <u>PRIOR TO</u> promulgation of the COMM47 Emergency Rules (on or before April 20, 1998) • <u>47.337</u> - applies to site investigations started after implementation of ILHR47 (January 15, 1993) for which a RAP was received <u>AFTER</u> promulgation of the COMM47 Emergency Rules (on or after April 21, 1998) • <u>47.338</u> - applies to any site for which a RAP was received PRIOR TO promulgation of the COMM47 Emergency Rules (on or before April 20, 1998), <u>including pre-ILHR47 sites.</u>

REMINDER FROM CLAIM REVIEW STAFF:

Please be sure to send your claims in on disc.

If you need copies of the claim discs, please contact the PECFA Program Assistants,
Diane Ploessel at 608-261-7726 or Ellen Hario at 608-266-2424.

Thank you!

STAY TUNED... More to come in Update 15, including: information on COST CONTROL/ COST GUIDELINES, STATUS OF THE LSP (Licensed Site Professional) REGISTRATION, and STATUS OF THE BUNDLING PROCESS.